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UNCLAS SECTION 01 OF 02 JAKARTA 000372

SINGAPORE FOR SUSAN BAKER

SIPDIS  
SENSITIVE

DEPT PASS TO USTR  
DEPT FOR EAP/MTS, EAP/IPE, EB/TPP, EB/IPE  
USTR FOR BWEISEL  
USTR FOR KELHERS AND RBAE

E.O. 12598: N/A  
TAGS: [KIPR](#) [EINV](#) [ETRD](#) [ECON](#) [ID](#)  
SUBJECT: INDONESIA SHOULD DOWNGRADE TO PRIORITY WATCH

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11. (SBU) Summary: Post recommends that Indonesia be downgraded on the Special 301 intellectual property rights (IPR) Watch List to Priority Watch List status for 2009. Indonesia has made only limited improvements overall in the enforcement and protection of IPR since its upgrade to the Watch List in November 2006. In addition, several economic policies initiated by Indonesia in 2008 undermine the country's IPR regime and increase harm to U.S. intellectual property rights holders. These include actions by the Government of Indonesia (GOI) to limit the ability of pharmaceutical companies to import medicines as well as a ministerial decree requiring films exhibited in Indonesia be processed domestically. End Summary.

Some Progress, But Not Enough  
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12. (SBU) Post acknowledges that the GOI has made advances to address IPR infringement. IPR enforcement has continued, although often sporadic and poorly reported. During 2008, the GOI continued to interdict counterfeit pharmaceutical products and launched a successful operation against nine different criminal groups involved in the manufacture and distribution of counterfeit industrial lubricants. Among those arrested was the country's single largest lubricant counterfeiter.

13. (SBU) Optical disk (OD) enforcement also continued throughout 12008. The GOI seized approximately 6 million contraband or pirate disks and several hundred optical disk burners. (Optical discs are used to pirate music, movies and software.) The Ministry of Industry increased inspections of OD factories and factory owners have responded with better compliance. Indonesia has also implemented a system to monitor imports of the raw material used to manufacture optical disks. Unfortunately, Indonesia's judiciary continues to resist employing provisions of the copyright law that require the seizure and destruction of equipment identified as having been used for the production of counterfeit products.

14. (SBU) Indonesian law enforcement authorities have successfully utilized U.S. assistance, especially support provided by the Department of State-funded, Department of Justice (DOJ)-implemented ICITAP program. ICITAP advisors continue to mentor and guide GOI officials in advancing IPR objectives. Many of Indonesia's IPR-related accomplishments trace back to capacity building efforts delivered under this program, including improved compliance by OD

factories and increased interdictions of counterfeit goods. However, overall lack of coordination at the national level continues to undermine Indonesia's efforts to substantially and measurably improve its IPR regime.

#### Unintended Consequences

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15. (SBU) Indonesia has instituted several policies in 2008 that pose an adverse risk to Indonesia's IPR regime. In November the Ministry of Health issued Decree 1010/MENKES/PER/XI/2008, which requires pharmaceutical companies to manufacture drugs domestically as a prerequisite for the licensing and sale of their products. Decree 1010 effectively prevents the sale of legitimate, foreign manufactured drugs in Indonesia. Several licenses for medicines have subsequently been rejected by the GOI's food and drug agency (BPOM). As a result, Decree 1010 forces the transfer of intellectual property to local manufacturers and risks increasing the demand for counterfeit alternatives. Counterfeits are already estimated to comprise 40 percent of the pharmaceutical market in Indonesia.

16. (SBU) In November the Ministry of Tourism issued Decree PM.55/PW.204/MKP/2008 which requires that all theatrical movie prints exhibited in Indonesia be processed locally. This decree forces the transfer of intellectual property to local film processors (of which there are only two in Indonesia.) And by preventing importation and exhibition of foreign produced movie prints, the decree risks diverting consumer demand toward pirated substitutes in a market already beset by counterfeit DVDs. Health issues SDecree

#### Priority Watch List

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17. (SBU) Post feels that IPR policy interests are best served if Indonesia remains on the Priority Watch List for the full year. However, Indonesia should be offered a realistic opportunity to return to Watch List status (or better) in 2010. That opportunity should include concrete efforts to roll back policies that enable IPR violations as well as enhanced enforcement against IPR violators. The integrity of Indonesia's judicial system also remains a persistent concern. We should insist on measurable improvement in the successful prosecution of IPR violators and the full application of sanctions as provided for under Indonesia's IPR laws. We should also encourage the Indonesian National Police to include IPR enforcement as a specific priority. Lastly, Indonesia should empower its Directorate General of IPR to more effectively coordinate IPR efforts at the national level.

HUME